

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MYRTIS PAULO HART,

Petitioner,

v.

No. 21-cv-018 WJ-KBM

MARK GALLEGOS, *et al*,

Respondents.

ORDER TO SHOW CAUSE

This matter is before the Court on Myrtis Paulo Hart's *pro se* Petition for Writ of Habeas Corpus (Doc. 1) ("Petition"). Also before the Court is his Motion to Proceed *In Forma Pauperis* (Doc. 2) (IFP Motion). The Petition alleges Hart's confinement is illegal because an officer applied excessive force and lied in a disciplinary report. (Doc. 1 at 1). The only request for relief is an order directing Hart's release from custody. *Id.* at 2.

The New Mexico Corrections Department inmate locator website reflects that Hart was released from prison after filing the Petition. *See* <https://search.cd.nm.gov/>. Unless he challenges an underlying criminal conviction, a released habeas petitioner generally cannot obtain relief because he "no longer suffers a redressable injury." *United States v. Fields*, 823 Fed. App'x 587, 589 (10th Cir. 2020). As the Tenth Circuit explained:

We cannot modify his sentence now that it has been completed. And we are not allowed to give him a judicial make-up call by shortening his supervised release term... [T]he best this court could do for him would be to declare that he spent longer in prison than he should have.

Rhodes v. Judiscak, 676 F.3d 931, 935 (10th Cir. 2012).

Accordingly, the Court will require Hart to show cause within thirty (30) days of entry of this Order why the Petition is not moot, following his release from prison. If Hart fails to timely

respond and overcome mootness, the Court will dismiss the Petition without further notice. The Court will also grant Hart's IFP Motion, to the extent he seeks ancillary benefits of *in forma pauperis* status, such as Court-supplied service. Any request for waiver of the filing fee is moot, since Hart paid the \$5.00 habeas filing fee on February 10, 2021.

IT IS ORDERED that the Motion to Proceed *In Forma Pauperis* (Doc. 4) is **GRANTED**, in part.

IT IS FURTHER ORDERED that within thirty (30) days of entry of this Order, Hart shall show cause, if any, why this habeas proceeding should not be dismissed as moot.


UNITED STATES MAGISTRATE JUDGE